

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN

In re: Darrell D. Edwards,

Debtor.

Case No. 11-23195-MDM

Darrell D. Edwards
3789 N. 75th Street
Milwaukee, WI 53216

Plaintiff,

v.

**ADVERSARY
PROCEEDING
COMPLAINT**

HSBC Mortgage Services
26525 N. Riverwoods Blvd.
Mettawa, IL 60045

Case No.:

HSBC Mortgage Services
P.O. Box 10490
Virginia Beach, VA 23450

Registered Agent:
C T Corporation System
8040 Excelsior Drive, Suite 200
Madison, WI 53717

Defendants.

Additional parties,
Mary B. Grossman,
Chapter 13 Trustee

The above-referenced Debtor and Plaintiff (hereinafter “Debtor”), Darrell D. Edwards, by Attorney Jared M. Nusbaum, of the Law Office of Rollie R. Hanson, S.C., hereby brings this Adversary Proceeding for the purpose of having the Court hear evidence to enter an order to strip the lien rights of the second mortgage held by HSBC Mortgage Services and to order

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that HSBC Mortgage Services holds an unsecured claim pursuant to §§ 506 and 1322 (b)(2) of the United States Bankruptcy Code.

Parties

1. The Plaintiff, Darrell D. Edwards, is an adult residing at 3789 N. 75th Street, Milwaukee, WI 53216 in the County of Milwaukee, State of Wisconsin.
2. Upon information and belief the Defendant HSBC Mortgage Services is a foreign corporation with its principal place of business located at 26525 N. Riverwoods Blvd., Mettawa, IL 60045. In addition, the Defendant HSBC Mortgage Services has submitted to the jurisdiction of the bankruptcy court by filing a proof of claim in the Debtor's bankruptcy. The Defendant HSBC Mortgage Services requests that notices to be sent to HSBC Mortgage Services, P.O. Box 10490, Virginia Beach, VA 23450.
3. The Defendant, C T Corporation System, upon information and belief is the registered agent for HSBC Mortgage Services, Inc. with an address of 8040 Excelsior Drive, Suite 200, Madison, WI 53717.

Facts

4. The Debtor filed this Chapter 13 Bankruptcy on March 11, 2011 in the Eastern District of Wisconsin and provided notice to HSBC Mortgage Services of said filing.
5. The Debtor owns his homestead located at 3789 N. 75th Street, Milwaukee, WI 53216 with a fair-market value of \$113,700.00 which is based off of the 2010 property tax bill attached hereto as Exhibit A.
6. Further, the real estate located at 3789 N. 75th Street, Milwaukee, WI 53216 is fully described below:

Plat page 264-25 Neighborhood 1940 Royal Park View in NW 1/4 Sec 10-7-21 Block 1
Lot 25. Tax key 264-0817-0

7. As of the date of the filing of his Chapter 13 bankruptcy, Deutsche Bank National Trust Company held a first mortgage dated February 22, 2006 with a balance of not less than \$123,066.11 as provided in Deutsche Bank's Proof of Claim attached hereto as Exhibit B.
8. The total of the first mortgage held by Deutsche Bank in the amount of \$123,066.11 at the time of filing of this bankruptcy is greater than the value of the Debtor's homestead real estate. Therefore, there is no equity for the second mortgage held by HSBC Mortgage Services in the Debtor's homestead real estate to attach to and this claim must be classified as an unsecured claim.

WHEREFORE, the Debtors request the following relief:

- 1) A determination that HSBC Mortgage Services holds an unsecured claim for the second mortgage and does not hold lien rights to the Debtor's homestead real estate for said mortgage;
- 2) An order stripping the second mortgage held by HSBC Mortgage Services upon completion of the Debtor's Chapter 13 Plan;
- 3) Any other relief which the Court deems just and appropriate.

Respectfully submitted this 9th day of May, 2011 at West Allis, Wisconsin.

/s/ Jared M. Nusbaum
Jared M. Nusbaum
Attorney for the Debtors

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